



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155

RECEIVED

MAR 12 2001

DIVISION OF
OIL, GAS AND MINING

m/047/013

IN REPLY REFER TO:

3590

UTU-0115850

(UT-931)

MAR 7 2001

CERTIFIED MAIL--Return Receipt Requested

Mr. Gordon Ziegler
Ziegler Mineral and Chemical Corp
100 Jerico Quadrangle, Suite 140
Jerico, New York 11753

Re: Mine Plan Approval, Federal Gilsonite Lease UTU-0115850

Dear Mr. Ziegler:

MINE PLAN APPROVAL

Background- The Bureau of Land Management (BLM) Utah State Office, received your mine plan on November 23, 1999. An Environmental Assessment (UT-080-2001-5) was written in response to your mining plan and a Decision Record (DR) was issued on February 16, 2001. This document constitutes the approval granted under 43 CFR 3590 for mining on the Federal gilsonite lease. The lessee is responsible for abiding by the mine plan as analyzed in the EA, including all mitigation incorporated as part of the mine plan. This approval does not constitute any approvals required by the Division of Oil, Gas and Mining or any other permits necessary to commence operations.

Approval- The mine plan is approved for Federal gilsonite Lease UTU-0115850 located on the Cowboy Vein. A shaft will be sunk on the north vein with hoist house, airlift, bins, headframe. The old C-4 shaft on the south vein will be re-entered for mining purposes. Air lines and will be maintained from the new shaft on the North Vein. Mining will also commence on the North Vein and escape ways will be located approximately 600 feet southeast of the new shaft and 500 feet northwest of the shaft. A road will be widened to provide access to the facilities. The company will provide a catch basin around the shaft and airlift facilities. The following conditions of approval and notice(s) will apply to this approval:

Conditions of Approval-

1. **As Built Drawings.** The Lessee will submit to the Deputy State Director, Natural Resources, BLM Utah State Office, at the above address, a scaled map showing the construction and the survey coordinates (State Plane or metes and bounds description) of each of the mine features, buildings, and vein, within 90 days after construction is complete. The surveyor that conducts the survey will be licenced and shall stamp the drawing. Land features will be shown on the drawing. These will include but are not limited to section corners, roads, and section lines. An updated map will be sent to BLM within 90 days after construction is completed on any new sites.

2. **Surface Pillar.** If a surface pillar is left, the lessee shall leave a minimum of 35' between the surface and the upper most workings in the mine. Any proposed surface pillar size of more than 50 feet or less than 35 feet will require prior approval by BLM. The lessee will submit documentation to the AO showing reduced pillar size will not result in any long-term surface subsidence. The AO must approve changes in surface pillar size prior to any changes.

3. **Quarterly Production Maps.** The lessee will submit maps quarterly to the BLM Utah State Office of the BLM showing the amount of gilsonite removed in the previous quarter. These will be submitted by January 15th, April 15th, July 15th and October 15th. The maps will be scaled and show the depth of cut and the thickness of the vein at intervals that can be used to verify production. These maps shall be certified by a registered engineer, land surveyor or an official of the company.

4. **Yearly Mining Plan.** By January 15th of each year, the lessee will submit a one-year mine plan to the BLM Utah State Office showing the proposed mining sequences for the coming year on a scaled map. The one-year plan will describe the extraction sequence and the projected tonnages of ore to be extracted for that year.

5. **Lease Boundary Marking.** The lessee will mark the corners of the boundary of the lease with metal fencing posts and metal painted signs at each corner of the lease. The signs will show as a minimum the legal subdivision and the Federal gilsonite lease number. These signs will be located by survey. A scaled copy of this survey (map) will be sent to BLM Utah State Office 180 days after the start of construction of surface facilities.

6. **Groundwater.** Should groundwater flow be encountered in quantities greater than 5 gallons per hour during mining operations, the lessee/operator shall contact the Utah State Office Mining Engineer(801- 539-4036) and the Vernal Field Office Hydrologist or Geologist (435-781-4400) within 24 hours of the encounter and report on the following:

- 1) True vertical encountered depth
- 2) Subsurface location at which it was encountered
- 3) The approximate flow rate into the mine
- 4) Association of flow with any major geologic feature such as a fault or fracture surface.

Based upon this information, the AO will determine if the lessee will be required to monitor the effect of the flow into the mine on any nearby wildlife, or stock wells. If such wells are affected the AO may require the lessee to supply replacement water to the affected stock or wildlife ponds.

All groundwater flows encountered in the mine shall be sampled and analyzed for major cations, anions, total dissolved solids, pH, total suspended solids, oil and grease and pheynols (See Enclosure 1). The lessee shall follow the rules and regulations of the State of Utah pertaining to the sampling parameters for pollutants and surface effluent discharges from the proposed Gilsonite mine (Utah Administrative Code, August 4, 1995, R317-1.2: General Requirements: R317-8.3: Application Requirements (for a UPDES Permit: R317-6-2:Ground Water Quality Standards). Results from these analyses and sampling parameters for pollutants as required by the State of Utah shall be provided to the Vernal District office Hydrologist (Vernal District Office, 170 L., 500E., Vernal, Ut. 84078) and Utah State Office Mining Engineer (USO, P.O. Box 45155, Salt Lake City, Ut., 84145-0155) within 30 working days of encountering the water.

7. **Signage.** The lessee shall maintain a sign on the outside the hoist house at the working site that lists the Federal lease number.

8. **Shaft Sealing.** Final designs shall be submitted and reviewed by BLM prior to seal construction. The collar and other structures shall be removed.

Concrete Seals: The final concrete seal over openings that penetrate the surface must conform to the following as a minimum:

Bedrock - If the seal is to be in an exposed rock outcrop, the top of the seal shall be constructed so as to conform with the contour of the outcrop and shall be no higher than the adjacent rock. The color of the concrete shall be of such a color as to blend in the surrounding rock outcrop. The bottom of the seal shall sit on bedrock and shall be placed in the Gilsonite.

Soil Area- If the shaft seal is to be in an area where soil will cover the shaft seal, the top of the seal shall be placed in bedrock so that the shaft seal is a minimum of 4 feet below the top of the of soil cover. There shall be no alluvial material between the shaft cover and the Gilsonite in the vein and the seal must be im-bedded in the Gilsonite on the vein side of the cover.

9. **Mining Under the Highway.** Prior to commencement of mining within 100 feet of the highway, Ziegler must notify the AO of its intent to mine under the highway and must submit additional information to BLM concerning timing, vein width, Gilsonite depth and surface pillar to be left. BLM will approve/disapprove this site specific highway crossing with this additional information. Ziegler must not cross the UDOT Right-of-Way prior to further BLM approval.

10. **Cultural Resources.** A Class III archeological survey has been conducted. All personnel will refrain from collecting artifacts and from disturbing any significant cultural resources in the area. The lessee is responsible for informing all persons in the area who are associated with this project that they may be subject to prosecution for knowingly disturbing historic or archaeological sites or for collecting artifacts. All vehicular traffic, personnel movement, construction, and restoration activities shall be confined to the areas examined, as referenced in the archaeological report, and to the existing roadways and/or evaluated access routes. If historic or archaeological materials are

uncovered during construction, the lessee is to immediately stop work that might further disturb such materials and contact the Authorized Officer (AO).

Within five working days after contacting the BLM, the AO will inform the lessee as to: 1) whether the materials appear eligible for the National Historic Register of Historic Places; 2) the mitigation measures that the lessee will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and, 3) a time frame for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the lessee wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the lessee will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the Authorized Officer (AO) that required mitigation has been completed, the lessee will then be allowed to resume activities.

11. **Paleontology**. The lessee shall stop construction activities and notify the AO if paleontological resources (vertebrate fossils) are exposed or identified during construction or mining. The BLM will provide mitigation measures to allowing construction or mining. Costs of mitigation will be borne by the lessee.

12. **Containment Berm**. No topsoil from the lease shall be used in the construction of the containment berm on the low side of the shaft and ore bin area.

13. **Noxious Weeds**. The lessee will control noxious weeds on areas disturbed by mining and on adjacent undisturbed lands which will extend 50' beyond the disturbance. The lessee will control weeds that the Utah Commissioner of Agriculture so designates in the future, up to the time that final reclamation on the lease is found to be to the satisfaction of the BLM. If herbicides or other pesticides or possibly hazardous chemicals are to be used, it is required that a Pesticide Use Proposal be submitted by the lessee and approved by the AO prior to any application.

UTAH NOXIOUS WEEDS The Utah State Commissioner of Agriculture has officially designated 18 species listed below as noxious in the State of Utah.

COMMON NAME

Bermudagrass
Field Bindweed
Broad-leaved Pepperweed
Canada Thistle
Diffuse Knapweed
Dyers Woad
Perennial Sorghum spp.

SCIENTIFIC NAME

Cynodon dactylon (L.) Pers.
Convolvulus spp. (Wild Morning-glory)
Lepidium latifolium L. (Tall Whitetop)
Cirsium arvense (L.) Scop.
Centaurea diffusa Lam.
Isatis tinctoria L.
including but not limited to Johnson Grass (*Sorghum halepense* (L.) Pers. and *Sorghum Alnum* (*Sorghum alnum*, Parodi)

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>
Leafy Spurge	<i>Euphorbia esula</i> L.
Medusahead	<i>Taeniatherum caput-medusae</i> (L.) Nevski
Musk Thistle	<i>Carduus nutans</i> L.
Quackgrass	<i>Agropyron repens</i> (L.) Beauv.
Russian Knapweed	<i>Centaurea repens</i> (L.)
Scotch Thistle	<i>Onopordium acanthium</i> L. (Cotton Thistle)
Spotted Knapweed	<i>Centaurea maculosa</i> Lam.
Squarrose Knapweed	<i>Centaurea squarrosa</i> Roth
Whitetop	<i>Cardaria</i> spp.
Yellow Starthistle	<i>Centaurea solstitialis</i> L.
Purple loosestrife	<i>Lythrum salicaria</i>

14. **Reclamation.** A seeding and grading plan and schedule will be submitted and approved by the AO prior to finalizing the reclamation. All disturbed areas will be reclaimed with native plant species. The seed mixture will be provided by the AO. Reclamation will not be accepted until the disturbed lands have the same plant composition and density as the surrounding lands. The reclamation bond will not be released until the AO accepts the reclamation in writing. Concurrent reclamation practices will be used.

Topsoil will be stripped and salvaged to provide for sufficient quantities to be re-spread to a depth of at least four to six inches (or more if readily available on-site) over the disturbed areas to be reclaimed. Topsoil will be stockpiled separately from subsoil materials. Topsoil to be stored for more than one year will be: 1) windrowed, where possible, to a depth of three to four feet near the margin [other than the margin with the run-off berm] of the north vein mine site ; and 2) broadcast seeded with the prescribed seed mixture furnished by the AO immediately after windrowing, promptly followed by a dozer or other tracked vehicle "walking" the windrow to cover the broadcast seed. For the windrowing the following pure live seed mixture will be utilized and must be, noxious weed free as per Utah Department of Agriculture regulation R-68-8-2.

Common Name	Scientific Name	Pound per acre
Shadscale saltbrush	<i>Atriplex confertifolia</i>	3
Big sage brush	<i>Artemisia tridentate</i> ssp. <i>Wyomingensis</i>	3
Galleta grass	<i>Hilaria jamesii</i>	2
Forwing saltbush	<i>Atriplex canescens</i>	4

Mulching may be one method considered to enhance the re-establishment of desired native plant communities. If straw or hay mulch is used, the straw and hay must be certified to be weed-free and the documentation submitted to the AO prior to usage.

Upon the completion of mining operations, all equipment and facilities shall be removed. All waste rock will be dumped into the north vein production shaft before it is sealed. If waste rock is to be left, the lessee must show that it will not contaminate the surrounding area and that there is sufficient topsoil (i.e., greater than 6 inches to cover the rock). All materials left in the mine will be reported to the AO prior to removal of the ability to descend down the shaft via the hoist and bucket. Written approval shall be obtained by the AO to leave the materials in the mine.

The disturbed areas will be reshaped to approximate the original [predisturbance] contour. Stockpiled topsoil shall be spread over the recontoured areas.

15. Stipulation Waiver. Any of these stipulations may be waived by the authorized officer (AO) if either the resource values change or the lessee/operator demonstrates to the satisfaction of the (AO) that adverse impacts can be mitigated.

Notice(s)-

1. Any exploration or additional activities not included in the Mine Plan Approval must be approved by the BLM prior to commencement.
2. Should mining conditions warrant a change to your mine plan approval (mining and reclamation plan), you must submit, in writing a request for modification to the Utah State Office (attn: Mr. Stan Perkes) and receive a written approval prior to conducting the proposed modification(s).
3. Ziegler will advise all of its employees that they are operating in a black-footed ferret reintroduction area, and that any ferret sightings should be reported to the Utah Division of Wildlife and the US Fish and Wildlife Service.
4. Ziegler has been authorized to conduct exploration (and reclamation of such) operations pursuant to an October 27, 1999, Authorized Officer approval. The terms of the approval of the exploration plan is **not** effected by the subsequent approval of a mine and reclamation plan.

Bond- The Lessee has a \$120,000 bond in place. It appears that BLM has sufficient bonding to cover the liabilities for reclamation, rentals and royalties. A new bond schedule will determine the exact requirements. BLM may adjust the bond amount at any time.

Appeal Rights- You have 30 days to appeal this approval to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and Form 1842-1 (enclosed). If an appeal is taken, your notice of appeal must be filed in this office within 30 days following the date of this approval. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal

and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

For further information contact Mr. Stan Perkes, (801) 539-4036.

Sincerely,

/s/ Douglas M. Koza

Douglas M. Koza
Deputy State Director
Natural Resources

Enclosure

1. Form 1842-1 (1 p)

bcc:

██████████
Vernal Field Office
✓ Utah Division of Oil, Gas, and Mining (Attn. Tony Gallegos)
Mr. Stan Wagner, Star Route, Vernal Utah, 84078
Files - UTU-011580
Chron File
UT-931, SPerkes